

## **EXHIBIT B**

2842/1.8

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\* \* \* \* \* UNITED STATES OF AMERICA

CRIMINAL ACTION  
No. 04-10150-RGS

WARNER-LAMBERT COMPANY LLC

BEFORE THE HONORABLE RICHARD G. STEARNS  
UNITED STATES DISTRICT JUDGE  
WAIVER, CHANGE OF PLEA AND SENTENCING HEARING

## A P P E A R A N C E S

OFFICE OF THE UNITED STATES ATTORNEY  
1 Courthouse Way, Suite 9200  
Boston, Massachusetts 02210  
for the United States  
By: Thomas E. Kanwit, AUSA  
- Sara M. Bloom, AUSA  
- Jill Furman, Trial Attorney

DAVIS POLK & WARDWELL  
450 Lexington Avenue  
New York, New York 10017  
for the defendant  
By: Robert B. Fiske, Jr., Esq.  
James P. Rouhandeh, Esq.  
Martine M. Beamon, Esq.

Courtroom No. 21  
John J. Moakley Courthouse  
1 Courthouse Way  
Boston, Massachusetts 02210  
June 7, 2004  
2:30 p.m.

6/7/04

1                   APPEARANCES, CONTINUED

2

3

4

5                   HARE & CHAFFIN  
6                   160 Federal Street, 23rd Floor  
7                   Boston, Massachusetts 02110-1701  
8                   for the defendant  
9                   By: David B. Chaffin, Esq.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

20                   CAROL LYNN SCOTT, CSR, RMR  
21                   Official Court Reporter  
22                   One Courthouse Way, Suite 7204  
23                   Boston, Massachusetts 02210  
24                   (617) 330-1377

1 MR. TEICHER: My name is Martin Teicher. I am  
2 a Vice President of Warner-Lambert Company LLC.

3 THE COURT: All right. Mr. Teicher, you are  
4 familiar with what purports to be the minutes of the meeting  
5 held by the managers of Warner-Lambert on May 11, 2004?

6 MR. TEICHER: I am on the Board of Directors  
7 of Warner-Lambert.

11 MR. TEICHER: Yes.

15 MR. TEICHER: I believe so, Your Honor.

19 Have you discussed with counsel what it means for  
20 the corporation to waive indictment in this case?

21 MR. TEICHER: Yes.

1 his or her own to bring in the form of an indictment a  
2 felony or a charge with the consequence of a felony crime  
3 without obtaining the prior permission of a citizen panel  
4 called a grand jury to do so.

5                   By waiving indictment in this case, Warner-Lambert  
6 is permitting the government to proceed as if it, indeed,  
7 had the consent of the grand jury to bring these charges.  
8 Although this is captioned as an "Information," the crimes,  
9 again, as I stated before are felonies.

10                  Do you understand that Warner-Lambert by agreeing  
11 to waive indictment is giving up its right to require the  
12 government to present this case first to a grand jury to  
13 obtain the acquiescence of a grand jury in the Information?

14                  **MR. TEICHER:** I do understand that, Your  
15 Honor.

16                  **THE COURT:** Is it the advice of counsel that  
17 it is in the best interests of the corporation to proceed by  
18 waiver of indictment?

19                  **MR. TEICHER:** Yes, Your Honor.

20                  **THE COURT:** Does either counsel or Mr. Teicher  
21 know of any untoward threats or inducements that were given  
22 to Warner-Lambert to bring about the waiver of indictment in  
23 this case?

24                  **MR. TEICHER:** No.

25                  **MR. ROUHANDEH:** No, Your Honor.

1                   The sale of the drug with the tradename Neurontin  
2                   was introduced in interstate commerce for unapproved uses  
3                   and without prior FDA approval.

4                   This crime, like Count 2, is a direct liability  
5                   offense, that is, the government would not have to prove  
6                   scienter but would have to prove the four elements I just  
7                   described.

8                   So too with Count 2 which alleges distribution of a  
9                   misbranded drug. As framed this would require proof of a  
10                   prior conviction under the same operative statutes, the sale  
11                   of the drug under the tradename Neurontin in interstate  
12                   commerce, and unapproved uses without adequate directions  
13                   being provided to physicians and consumers for such uses.

14                   These would be the elements that the government  
15                   would have to prove.

16                   Do I have them correctly stated, Counsel?

17                   **MR. KANWIT:** Yes, you do, Your Honor.

18                   **MR. ROUHANDEH:** Yes, Your Honor.

19                   **THE COURT:** Do you understand that --

20                   **MR. TEICHER:** Yes.

21                   **THE COURT:** -- that is what would be involved?

22                   All right. Now, let me ask Mr. Kanwit to  
23                   explain -- and I realize that there is more art than perhaps  
24                   science in this -- but explain the maximum penalties to the  
25                   offense.